

- (A) global and regional crude oil and refined product supplies;
- (B) the adequacy and utilization of refinery capacity;
- (C) the adequacy, utilization, and distribution of regional refined product storage capacity;
- (D) weather conditions;
- (E) the refined product transportation system;
- (F) market inefficiencies; and
- (G) any other factor affecting the functional capability of the heating oil industry and propane industry that has the potential to affect national or regional supplies and prices;

(3) recommendations on steps that the Federal, State, and local governments can take to prevent or alleviate the impact of sharp and sustained increases in the price of natural gas, heating oil, and propane; and

(4) recommendations on steps that companies engaged in the production, refining, storage, transportation of heating oil or propane, or any other activity related to the heating oil industry or propane industry, can take to prevent or alleviate the impact of sharp and sustained increases in the price of heating oil and propane.

#### (c) Information requests

The Secretary may request information necessary to prepare the Home Heating Readiness Report from companies described in subsection (b)(4).

(Pub. L. 94-163, title I, §108, as added Pub. L. 106-469, title VI, §605(a), Nov. 9, 2000, 114 Stat. 2042.)

### § 6217. Scientific inventory of oil and gas reserves

#### (a) In general

The Secretary of the Interior, in consultation with the Secretaries of Agriculture and Energy, shall conduct an inventory of all onshore Federal lands. The inventory shall identify—

(1) the United States Geological Survey estimates of the oil and gas resources underlying these lands;

(2) the extent and nature of any restrictions or impediments to the development of the resources, including—

(A) impediments to the timely granting of leases;

(B) post-lease restrictions, impediments, or delays on development for conditions of approval, applications for permits to drill, or processing of environmental permits; and

(C) permits or restrictions associated with transporting the resources for entry into commerce; and

(3) the quantity of resources not produced or introduced into commerce because of the restrictions.

#### (b) Regular update

Once completed, the USGS resource estimates and the surface availability data as provided in subsection (a)(2) shall be regularly updated and made publicly available.

#### (c) Inventory

The inventory shall be provided to the Committee on Resources of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate within 2 years after November 9, 2000.

#### (d) Assessments

Using the inventory, the Secretary of Energy shall make periodic assessments of economically recoverable resources accounting for a range of parameters such as current costs, commodity prices, technology, and regulations.

(Pub. L. 106-469, title VI, §604, Nov. 9, 2000, 114 Stat. 2041; Pub. L. 109-58, title III, §364(a), Aug. 8, 2005, 119 Stat. 723.)

#### CODIFICATION

Section was enacted as part of the Energy Act of 2000, and not as part of the Energy Policy and Conservation Act which comprises this chapter.

#### AMENDMENTS

2005—Subsec. (a)(1). Pub. L. 109-58, §364(a)(1)(A), struck out “reserve” before “estimates” and “and” after the semicolon.

Subsec. (a)(2), (3). Pub. L. 109-58, §364(a)(1)(B), added pars. (2) and (3) and struck out former par. (2) which read as follows: “the extent and nature of any restrictions or impediments to the development of such resources.”

Subsec. (b). Pub. L. 109-58, §364(a)(2), substituted “resource” for “reserve” and “publicly” for “publically”.

Subsec. (d). Pub. L. 109-58, §364(a)(3), added subsec. (d) and struck out heading and text of former subsec. (d). Text read as follows: “There are authorized to be appropriated such sums as may be necessary to implement this section.”

#### CHANGE OF NAME

Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

#### PART B—STRATEGIC PETROLEUM RESERVE

### § 6231. Congressional finding and declaration of policy

(a) The Congress finds that the storage of substantial quantities of petroleum products will diminish the vulnerability of the United States to the effects of a severe energy supply interruption, and provide limited protection from the short-term consequences of interruptions in supplies of petroleum products.

(b) It is the policy of the United States to provide for the creation of a Strategic Petroleum Reserve for the storage of up to 1 billion barrels of petroleum products to reduce the impact of disruptions in supplies of petroleum products, to carry out obligations of the United States under the international energy program, and for other purposes as provided for in this chapter.

(Pub. L. 94-163, title I, §151, Dec. 22, 1975, 89 Stat. 881; Pub. L. 106-469, title I, §103(4), Nov. 9, 2000, 114 Stat. 2029.)

#### REFERENCES IN TEXT

This chapter, referred to in subsec. (b), was in the original “this Act”, meaning Pub. L. 94-163, Dec. 22, 1975, 89 Stat. 871, as amended, known as the Energy Policy and Conservation Act. For complete classification

of this Act to the Code, see Short Title note set out under section 6201 of this title and Tables.

#### AMENDMENTS

2000—Subsec. (b). Pub. L. 106-469 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “It is hereby declared to be the policy of the United States to provide for the creation of a Strategic Petroleum Reserve for the storage of up to 1 billion barrels of petroleum products, but not less than 150 million barrels of petroleum products by the end of the 3-year period which begins on December 22, 1975, for the purpose of reducing the impact of disruptions in supplies of petroleum products or to carry out obligations of the United States under the international energy program. It is further declared to be the policy of the United States to provide for the creation of an Early Storage Reserve, as part of the Reserve, for the purpose of providing limited protection from the impact of near-term disruptions in supplies of petroleum products or to carry out obligations of the United States under the international energy program.”

#### STUDY OF A STRATEGIC ETHANOL RESERVE

Pub. L. 99-198, title XVII, §1778, Dec. 23, 1985, 99 Stat. 1659, provided that:

“(a) The Secretary of Agriculture shall conduct a study of the cost effectiveness, the economic benefits, and the feasibility of establishing, maintaining, and utilizing a Strategic Ethanol Reserve relative to the existing Strategic Petroleum Reserve.

“(b) The study shall be completed within one year after the enactment of this section [Dec. 23, 1985] and shall include, among other considerations—

“(1) the benefits and losses related to the U.S. economy, farm income, employment, government commodity programs, and the trade deficit of utilizing a Strategic Ethanol Reserve, as opposed to the Strategic Petroleum Reserve; and

“(2) the savings from storing ethanol as opposed to storing the amount of CCC-held grain necessary to produce the ethanol.

“(c) If the study shows that the Strategic Ethanol Reserve is cost effective, beneficial to the U.S. economy, and feasible in comparison with the Strategic Petroleum Reserve, the Secretary of Agriculture may establish, maintain, and utilize a Strategic Ethanol Reserve.”

#### ADDITIONAL CONGRESSIONAL FINDINGS

Pub. L. 97-35, title X, §1032, Aug. 13, 1981, 95 Stat. 618, provided that: “The Congress finds that—

“(1) the Strategic Petroleum Reserve should be considered a national security asset; and

“(2) enlarging the capacity and filling of the Strategic Petroleum Reserve should be accelerated (to the extent technically and economically practicable) to take advantage of any increased availability of crude oil in the world market from time to time.”

#### § 6232. Definitions

As used in this part and part C:

(1) Repealed. Pub. L. 106-469, title I, §103(5)(A), Nov. 9, 2000, 114 Stat. 2029.

(2) The term “importer” means any person who owns, at the first place of storage, any petroleum product imported into the United States.

(3) Repealed. Pub. L. 106-469, title I, §103(5)(A), Nov. 9, 2000, 114 Stat. 2029.

(4) The term “interest in land” means any ownership or possessory right with respect to real property, including ownership in fee, an easement, a leasehold, and any subsurface or mineral rights.

(5) The term “readily available inventories” means stocks and supplies of petroleum prod-

ucts which can be distributed or used without affecting the ability of the importer or refiner to operate at normal capacity; such term does not include minimum working inventories or other unavailable stocks.

(6) The term “refiner” means any person who owns, operates, or controls the operation of any refinery.

(7) Repealed. Pub. L. 106-469, title I, §103(5)(A), Nov. 9, 2000, 114 Stat. 2029.

(8) The term “related facility” means any necessary appurtenance to a storage facility, including pipelines, roadways, reservoirs, and salt brine lines.

(9) The term “Reserve” means the Strategic Petroleum Reserve.

(10) The term “storage facility” means any facility or geological formation which is capable of storing significant quantities of petroleum products.

(11) The term “Strategic Petroleum Reserve” means petroleum products stored in storage facilities pursuant to this part.

(Pub. L. 94-163, title I, §152, Dec. 22, 1975, 89 Stat. 882; Pub. L. 101-383, §6(a)(1), Sept. 15, 1990, 104 Stat. 729; Pub. L. 106-469, title I, §103(5), Nov. 9, 2000, 114 Stat. 2029.)

#### AMENDMENTS

2000—Par. (1). Pub. L. 106-469, §103(5)(A), struck out par. (1) which read as follows: “The term ‘Early Storage Reserve’ means that portion of the Strategic Petroleum Reserve which consists of petroleum products stored pursuant to section 6235 of this title.”

Par. (3). Pub. L. 106-469, §103(5)(A), struck out par. (3) which read as follows: “The term ‘Industrial Petroleum Reserve’ means that portion of the Strategic Petroleum Reserve which consists of petroleum products owned by importers or refiners and acquired, stored, or maintained pursuant to section 6236 of this title.”

Par. (7). Pub. L. 106-469, §103(5)(A), struck out par. (7) which read as follows: “The term ‘Regional Petroleum Reserve’ means that portion of the Strategic Petroleum Reserve which consists of petroleum products stored pursuant to section 6237 of this title.”

Par. (11). Pub. L. 106-469, §103(5)(B), struck out “; such term includes the Industrial Petroleum Reserve, the Early Storage Reserve, and the Regional Petroleum Reserve” before period at end.

1990—Pub. L. 101-383 inserted “and part C” after “this part”.

#### § 6233. Repealed. Pub. L. 106-469, title I, § 103(6), Nov. 9, 2000, 114 Stat. 2030

Section, Pub. L. 94-163, title I, §153, Dec. 22, 1975, 89 Stat. 882; Pub. L. 95-619, title VI, §691(b)(2), Nov. 9, 1978, 92 Stat. 3288, related to the Strategic Petroleum Reserve Office.

#### § 6234. Strategic Petroleum Reserve

##### (a) Establishment

A Strategic Petroleum Reserve for the storage of up to 1 billion barrels of petroleum products shall be created pursuant to this part.

##### (b) Authority of Secretary

The Secretary, in accordance with this part, shall exercise authority over the development, operation, and maintenance of the Reserve.

(c) to (e) Repealed. Pub. L. 106-469, title I, § 103(7)(C), Nov. 9, 2000, 114 Stat. 2030

**(f) Purpose of drawdown and distribution; requests for funds for storage**

(1) The drawdown and distribution of petroleum products from the Strategic Petroleum Reserve is authorized only under section 6241 of this title, and drawdown and distribution of petroleum products for purposes other than those described in section 6241 of this title shall be prohibited.

(2) In the Secretary's annual budget submission, the Secretary shall request funds for acquisition, transportation, and injection of petroleum products for storage in the Reserve. If no requests for funds are made, the Secretary shall provide a written explanation of the reason therefore.

(Pub. L. 94-163, title I, § 154, Dec. 22, 1975, 89 Stat. 882; Pub. L. 95-619, title VI, § 691(b)(2), Nov. 9, 1978, 92 Stat. 3288; Pub. L. 102-486, title XIV, § 1402, Oct. 24, 1992, 106 Stat. 2994; Pub. L. 105-177, § 1(6), June 1, 1998, 112 Stat. 106; Pub. L. 106-469, title I, § 103(7), Nov. 9, 2000, 114 Stat. 2030.)

AMENDMENTS

2000—Subsec. (a). Pub. L. 106-469, § 103(7)(A), amended subsec. (a) generally. Prior to amendment, subsec. (a) provided for the creation of a Strategic Petroleum Reserve of up to 1 billion barrels of petroleum products and required that the Reserve contain not less than 150 million barrels of petroleum products by the end of the 3-year period beginning on Dec. 22, 1975, and that the President take actions to enlarge the Reserve to 1,000,000,000 barrels as rapidly as possible beginning Oct. 24, 1992.

Subsec. (b). Pub. L. 106-469, § 103(7)(B), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: "The Secretary, not later than December 15, 1976, shall prepare and transmit to the Congress, in accordance with section 6421 of this title, a Strategic Petroleum Reserve Plan. Such Plan shall comply with the provisions of this section and shall detail the Secretary's proposals for designing, constructing, and filling the storage and related facilities of the Reserve."

Subsecs. (c) to (e). Pub. L. 106-469, § 103(7)(C), struck out subsecs. (c) to (e) which related to the levels of crude oil to be stored, plan objectives, and plan provisions.

1998—Subsec. (f). Pub. L. 105-177 added subsec. (f).

1992—Subsec. (a). Pub. L. 102-486 designated existing provisions as par. (1) and added par. (2).

1978—Subsecs. (b), (d). Pub. L. 95-619 substituted "Secretary" and "Secretary's" for "Administrator" and "Administrator's", respectively, meaning Administrator of the Federal Energy Administration, wherever appearing.

STRATEGIC PETROLEUM RESERVE DRAWDOWN PLAN

Pub. L. 97-229, § 4(c), Aug. 3, 1982, 96 Stat. 252, provided that: "On or before December 1, 1982, the President shall transmit to the Congress a drawdown plan for the Strategic Petroleum Reserve consistent with the requirements of section 154 of the Energy Policy and Conservation Act [this section]. Such plan shall be transmitted to the Congress as an amendment to the Strategic Petroleum Reserve Plan. Such amendment shall take effect on the date it is transmitted to the Congress and shall not be subject to section 159(e) of such Act [section 6239(e) of this title] relating to Congressional review. Subsequent amendments to such plan shall be in accordance with subsections (d) and (e) of such section 159."

§§ 6235 to 6238. Repealed. Pub. L. 106-469, title I, § 103(8)-(11), Nov. 9, 2000, 114 Stat. 2030

Section 6235, Pub. L. 94-163, title I, § 155, Dec. 22, 1975, 89 Stat. 884; Pub. L. 95-619, title VI, § 691(b)(2), Nov. 9, 1978, 92 Stat. 3288, related to the Early Storage Reserve. Section 6236, Pub. L. 94-163, title I, § 156, Dec. 22, 1975, 89 Stat. 885; Pub. L. 95-619, title VI, § 691(b)(2), Nov. 9, 1978, 92 Stat. 3288, related to the Industrial Petroleum Reserve.

Section 6237, Pub. L. 94-163, title I, § 157, Dec. 22, 1975, 89 Stat. 885; Pub. L. 95-619, title VI, § 691(b)(2), Nov. 9, 1978, 92 Stat. 3288; Pub. L. 102-486, title XIV, § 1405, Oct. 24, 1992, 106 Stat. 2995, related to the Regional Petroleum Reserve.

Section 6238, Pub. L. 94-163, title I, § 158, Dec. 22, 1975, 89 Stat. 886; Pub. L. 95-619, title VI, § 691(b)(2), Nov. 9, 1978, 92 Stat. 3288, related to a report on the establishment of Utility Reserves, Coal Reserves, Remote Crude Oil and Natural Gas Reserves.

**§ 6239. Development, operation, and maintenance of the Reserve**

(a) to (e) Repealed. Pub. L. 106-469, title I, § 103(13)(A), Nov. 9, 2000, 114 Stat. 2030

**(f) Powers of Secretary to develop and operate the Strategic Petroleum Reserve**

In order to develop, operate, or maintain the Strategic Petroleum Reserve, the Secretary may—

- (1) issue rules, regulations, or orders;
- (2) acquire by purchase, condemnation, or otherwise, land or interests in land for the location of storage and related facilities;
- (3) construct, purchase, lease, or otherwise acquire storage and related facilities;
- (4) use, lease, maintain, sell or otherwise dispose of land or interests in land, or of storage and related facilities acquired under this part, under such terms and conditions as the Secretary considers necessary or appropriate;
- (5) acquire, subject to the provisions of section 6240 of this title, by purchase, exchange, or otherwise, petroleum products for storage in the Strategic Petroleum Reserve;
- (6) store petroleum products in storage facilities owned and controlled by the United States or in storage facilities owned by others if those facilities are subject to audit by the United States;

(7) execute any contracts necessary to develop, operate, or maintain the Strategic Petroleum Reserve;

(8) bring an action, when the Secretary considers it necessary, in any court having jurisdiction over the proceedings, to acquire by condemnation any real or personal property, including facilities, temporary use of facilities, or other interests in land, together with any personal property located on or used with the land.

**(g) Acquisition of property by negotiation as prerequisite to condemnation**

Before any condemnation proceedings are instituted, an effort shall be made to acquire the property involved by negotiation, unless, the effort to acquire such property by negotiation would, in the judgement of the Secretary be futile or so time-consuming as to unreasonably delay the development of the Strategic Petroleum Reserve, because of (1) reasonable doubt as

to the identity of the owners, (2) the large number of persons with whom it would be necessary to negotiate, or (3) other reasons.

**(h), (i) Repealed. Pub. L. 106-469, title I, § 103(13)(D), Nov. 9, 2000, 114 Stat. 2031**

**(j) Expansion beyond 700,000,000 barrels**

If the Secretary determines expansion beyond 700,000,000 barrels of petroleum product inventory is appropriate, the Secretary shall submit a plan for expansion to the Congress.

**(k) Exemption from subtitle IV of title 49**

A storage or related facility of the Strategic Petroleum Reserve owned by or leased to the United States is not subject to the Interstate Commerce Act.

**(l) Rulemaking during drawdown and sale**

During a drawdown and sale of Strategic Petroleum Reserve petroleum products, the Secretary may issue implementing rules, regulations, or orders in accordance with section 553 of title 5, without regard to rulemaking requirements in section 6393 of this title, and section 7191 of this title.

(Pub. L. 94-163, title I, § 159, Dec. 22, 1975, 89 Stat. 886; Pub. L. 95-619, title VI, § 691(b)(2), Nov. 9, 1978, 92 Stat. 3288; Pub. L. 97-229, § 4(b)(1), (2)(B), Aug. 3, 1982, 96 Stat. 251, 252; Pub. L. 99-58, title I, § 102(a), July 2, 1985, 99 Stat. 102; Pub. L. 101-383, §§ 4(a), 9, 11, Sept. 15, 1990, 104 Stat. 728, 735; Pub. L. 106-469, title I, § 103(12), (13), Nov. 9, 2000, 114 Stat. 2030.)

REFERENCES IN TEXT

The Interstate Commerce Act, referred to in subsec. (k), is act Feb. 4, 1887, ch. 104, 24 Stat. 379, as amended, which was classified generally to chapters 1, 8, 12, 13, and 19 (§§ 1 et seq., 301 et seq., 901 et seq., 1001 et seq., and 1231 et seq., respectively) of former Title 49, Transportation. The Act was repealed (subject to an exception) by Pub. L. 95-473, § 4(b), Oct. 17, 1978, 92 Stat. 1466, the first section of which enacted subtitle IV (§ 10101 et seq.) of Title 49. Section 4(c) of Pub. L. 95-473 excepted from repeal those provisions of the Interstate Commerce Act that vested functions in the Interstate Commerce Commission, or the chairman or members of the Commission, related to transportation of oil by pipeline and that were transferred to the Secretary of Energy and the Federal Energy Regulatory Commission by sections 7155 and 7172(b) of this title.

AMENDMENTS

2000—Pub. L. 106-469, § 103(12), amended section catchline generally.

Subsecs. (a) to (e). Pub. L. 106-469, § 103(13)(A), struck out subsecs. (a) to (e) which related to congressional review and effective date of the Strategic Petroleum Reserve Plan, preparation and transmittal to Congress of proposals for designing, constructing, and filling facilities and of Plan amendments, and 60-day waiting period for effectiveness of amendments.

Subsec. (f). Pub. L. 106-469, § 103(13)(B), amended subsec. (f) generally. Prior to amendment, subsec. (f) set out powers of the Secretary to implement the Strategic Petroleum Reserve Plan, the Early Storage Reserve Plan, proposals for designing, constructing, and filling facilities, amendments to the Plans, and the storage of petroleum products in interim storage facilities.

Subsec. (g). Pub. L. 106-469, § 103(13)(C), substituted “development” for “implementation” and struck out “Plan” after “Strategic Petroleum Reserve”.

Subsecs. (h), (i). Pub. L. 106-469, § 103(13)(D), struck out subsecs. (h) and (i) which related to use of interim

storage facilities and environmental considerations for existing facilities, and report to Congress on results of negotiations for enlargement of Strategic Petroleum Reserve to one billion barrels.

Subsec. (j). Pub. L. 106-469, § 103(13)(E), amended subsec. (j) generally. Prior to amendment, subsec. (j) read as follows: “No later than 24 months after September 15, 1990, the Secretary shall amend the Strategic Petroleum Reserve Plan to prescribe plans for completion of storage of one billion barrels of petroleum product in the Reserve. Such amendment shall comply with the provisions of this section and shall detail the Secretary’s plans for the design, construction, leasing or other acquisition, and fill of storage and related facilities of the Reserve to achieve such one billion barrels of storage. Such amendment shall not be subject to the congressional review procedures contained in section 6421 of this title. In assessing alternatives in the development of such plans, the Secretary shall consider leasing privately owned storage facilities.”

Subsec. (l). Pub. L. 106-469, § 103(13)(F), amended subsec. (l) generally. Prior to amendment, subsec. (l) read as follows: “Notwithstanding subsection (d) of this section, during any period in which the Distribution Plan is being implemented, the Secretary may amend the plan and promulgate rules, regulations, or orders to implement such amendments in accordance with section 6393 of this title, without regard to the requirements of section 553 of title 5 and section 7191 of this title. Such amendments shall be transmitted to the Congress together with a statement explaining the need for such amendments.”

1990—Subsecs. (i), (j). Pub. L. 101-383, § 4(a), added subsecs. (i) and (j).

Subsec. (k). Pub. L. 101-383, § 9, added subsec. (k).

Subsec. (l). Pub. L. 101-383, § 11, added subsec. (l).

1985—Subsec. (e). Pub. L. 99-58 amended subsec. (e) generally, substituting provisions directing that amendments transmitted pursuant to subsec. (d) of this section not become effective until 60 days after transmittal except in the case of enumerated presidential determinations for provisions which had formerly empowered Congress to disapprove of transmitted proposals and amendments in accordance with the procedures specified in section 6421 of this title.

1982—Subsec. (f)(5). Pub. L. 97-229, § 4(b)(1), added par. (5).

Subsec. (h). Pub. L. 97-229, § 4(b)(2)(B), added subsec. (h).

1978—Subsecs. (a)(1), (c), (d), (e)(1), (f), (f)(I), (g). Pub. L. 95-619 substituted “Secretary” for “Administrator”, meaning Administrator of the Federal Energy Administration, wherever appearing.

ENERGY SECURITY AND INFRASTRUCTURE  
MODERNIZATION FUND

Pub. L. 114-74, title IV, § 404, Nov. 2, 2015, 129 Stat. 590, provided that:

“(a) ESTABLISHMENT.—There is hereby established in the Treasury of the United States a fund to be known as the Energy Security and Infrastructure Modernization Fund (referred to in this section as the ‘Fund’), consisting of—

“(1) collections deposited in the Fund under subsection (c); and

“(2) amounts otherwise appropriated to the Fund.

“(b) PURPOSE.—The purpose of the Fund is to provide for the construction, maintenance, repair, and replacement of Strategic Petroleum Reserve facilities.

“(c) COLLECTION AND DEPOSIT OF SALE PROCEEDS IN FUND.—

“(1) DRAWDOWN AND SALE.—Notwithstanding section 161 of the Energy Policy and Conservation Act (42 U.S.C. 6241), to the extent provided in advance in appropriation Acts, the Secretary of Energy shall draw down and sell crude oil from the Strategic Petroleum Reserve in amounts as authorized under subsection (e), except as provided in paragraph (2). Amounts received for a sale under this paragraph shall be deposited into the Fund during the fiscal year in which the

sale occurs. Such amounts shall remain available in the Fund without fiscal year limitation.

“(2) EMERGENCY PROTECTION.—The Secretary shall not draw down and sell crude oil under this subsection in amounts that would limit the authority to sell petroleum products under section 161(h) of the Energy Policy and Conservation Act (42 U.S.C. 6241(h)) in the full amount authorized by that subsection.

“(d) AUTHORIZED USES OF FUND.—

“(1) IN GENERAL.—Amounts in the Fund may be used for, or may be credited as offsetting collections for amounts used for, carrying out the program described in paragraph (2)(B), to the extent provided in advance in appropriation Acts.

“(2) PROGRAM TO MODERNIZE THE STRATEGIC PETROLEUM RESERVE.—

“(A) FINDINGS.—Congress finds the following:

“(i) The Strategic Petroleum Reserve is one of the Nation’s most valuable energy security assets.

“(ii) The age and condition of the Strategic Petroleum Reserve have diminished its value as a Federal energy security asset.

“(iii) Global oil markets and the location and amount of United States oil production and refining capacity have dramatically changed in the 40 years since the establishment of the Strategic Petroleum Reserve.

“(iv) Maximizing the energy security value of the Strategic Petroleum Reserve requires a modernized infrastructure that meets the drawdown and distribution needs of changed domestic and international oil and refining market conditions.

“(B) PROGRAM.—The Secretary of Energy shall establish a Strategic Petroleum Reserve modernization program to protect the United States economy from the impacts of emergency product supply disruptions. The program may include—

“(i) operational improvements to extend the useful life of surface and subsurface infrastructure;

“(ii) maintenance of cavern storage integrity; and

“(iii) addition of infrastructure and facilities to optimize the drawdown and incremental distribution capacity of the Strategic Petroleum Reserve.

“(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated (and drawdowns and sales under subsection (c) in an equal amount are authorized) for carrying out subsection (d)(2)(B), \$2,000,000,000 for the period encompassing fiscal years 2017 through 2020.

“(f) TRANSMISSION OF DEPARTMENT BUDGET REQUESTS.—The Secretary of Energy shall prepare and submit in the Department’s annual budget request to Congress—

“(1) an itemization of the amounts of funds necessary to carry out subsection (d); and

“(2) a designation of any activities thereunder for which a multiyear budget authority would be appropriate.

“(g) SUNSET.—The authority of the Secretary to draw down and sell crude oil from the Strategic Petroleum Reserve under this section shall expire at the end of fiscal year 2020.”

## **§ 6240. Petroleum products for storage, transport, or exchange**

### **(a) Eligibility of petroleum products**

The Secretary may acquire, place in storage, transport, or exchange petroleum products acquired by purchase or exchange.

### **(b) Objectives in determining manner of acquisition**

The Secretary shall, to the greatest extent practicable, acquire petroleum products for the Reserve in a manner consonant with the following objectives:

(1) minimization of the cost of the Reserve;

(2) Repealed. Pub. L. 106–469, title I, § 103(14)(C), Nov. 9, 2000, 114 Stat. 2031;

(3) minimization of the Nation’s vulnerability to a severe energy supply interruption;

(4) minimization of the impact of such acquisition upon supply levels and market forces; and

(5) encouragement of competition in the petroleum industry.

### **(c) Procedures**

The Secretary shall develop, with public notice and opportunity for comment, procedures consistent with the objectives of this section to acquire petroleum for the Reserve. Such procedures shall take into account the need to—

(1) maximize overall domestic supply of crude oil (including quantities stored in private sector inventories);

(2) avoid incurring excessive cost or appreciably affecting the price of petroleum products to consumers;

(3) minimize the costs to the Department of the Interior and the Department of Energy in acquiring such petroleum products (including foregone revenues to the Treasury when petroleum products for the Reserve are obtained through the royalty-in-kind program);

(4) protect national security;

(5) avoid adversely affecting current and futures prices, supplies, and inventories of oil; and

(6) address other factors that the Secretary determines to be appropriate.

(d), (e) Repealed. Pub. L. 106–469, title I, § 103(14)(D), Nov. 9, 2000, 114 Stat. 2031

### **(f) Predrawdown diversion**

If the Secretary finds that a severe energy supply interruption may be imminent, the Secretary may suspend the acquisition of petroleum product for, and the injection of petroleum product into, the Reserve and may sell any petroleum product acquired for and in transit to, but not injected into, the Reserve.

(g) Repealed. Pub. L. 106–469, title I, § 103(14)(D), Nov. 9, 2000, 114 Stat. 2031

### **(h) Purchase from stripper well properties**

(1) If the President finds that declines in the production of oil from domestic resources pose a threat to national energy security, the President may direct the Secretary to acquire oil from domestic production of stripper well properties for storage in the Strategic Petroleum Reserve. Except as provided in paragraph (2), the Secretary may set such terms and conditions as he deems necessary for such acquisition.

(2) Crude oil purchased by the Secretary pursuant to this subsection shall be by competitive bid. The price paid by the Secretary—

(A) shall take into account the cost of production including costs of reservoir and well maintenance; and

(B) shall not exceed the price that would have been paid if the Secretary had acquired petroleum products of a similar quality on the open market under competitive bid procedures without regard to the source of the petroleum products.

(Pub. L. 94-163, title I, §160, Dec. 22, 1975, 89 Stat. 888; Pub. L. 95-619, title VI, §691(b)(2), Nov. 9, 1978, 92 Stat. 3288; Pub. L. 96-294, title VIII, §§801(a), 802(a), 803, June 30, 1980, 94 Stat. 775, 776; Pub. L. 97-35, title X, §1033, Aug. 13, 1981, 95 Stat. 618; Pub. L. 97-229, §4(a)(1), (b)(2)(C), Aug. 3, 1982, 96 Stat. 250, 252; Pub. L. 99-58, title I, §§102(b), 103(b)(1), July 2, 1985, 99 Stat. 103, 104; Pub. L. 99-88, title I, §100, Aug. 15, 1985, 99 Stat. 342; Pub. L. 99-272, title VII, §7102, Apr. 7, 1986, 100 Stat. 141; Pub. L. 99-509, title III, §3202, Oct. 21, 1986, 100 Stat. 1889; Pub. L. 101-383, §§4(b), (c), 5(a), (b)(3), 7, Sept. 15, 1990, 104 Stat. 728, 729, 734; Pub. L. 101-548, §1, Nov. 14, 1990, 104 Stat. 2398; Pub. L. 102-486, title XIV, §1404(a), (b)(2), Oct. 24, 1992, 106 Stat. 2994, 2995; Pub. L. 104-66, title I, §1051(f), Dec. 21, 1995, 109 Stat. 716; Pub. L. 106-469, title I, §103(14), Nov. 9, 2000, 114 Stat. 2031; Pub. L. 109-58, title III, §301(e)(2)(A), Aug. 8, 2005, 119 Stat. 684; Pub. L. 113-67, div. A, title III, §306(a), Dec. 26, 2013, 127 Stat. 1183.)

## AMENDMENTS

2013—Subsec. (a). Pub. L. 113-67 amended subsec. (a) generally. Prior to amendment, text read as follows: “The Secretary may acquire, place in storage, transport, or exchange—

“(1) crude oil produced from Federal lands

“(2) crude oil which the United States is entitled to receive in kind as royalties from production on Federal lands; and

“(3) petroleum products acquired by purchase, exchange, or otherwise.”

2005—Subsec. (c). Pub. L. 109-58 added subsec. (c).

2000—Subsec. (a). Pub. L. 106-469, §103(14)(A), in introductory provisions, substituted “The Secretary may acquire, place in storage, transport, or exchange” for “The Secretary is authorized, for purposes of implementing the Strategic Petroleum Reserve Plan or the Early Storage Reserve Plan, to place in storage, transport, or exchange”.

Subsec. (a)(1). Pub. L. 106-469, §103(14)(B), struck out “, including crude oil produced from the Naval Petroleum Reserves to the extent that such production is authorized by law;” after “Federal lands”.

Subsec. (b). Pub. L. 106-469, §103(14)(C), struck out “, including the Early Storage Reserve and the Regional Petroleum Reserve” before “in a manner consonant” in introductory provisions.

Subsec. (b)(2). Pub. L. 106-469, §103(14)(C), struck out par. (2) which read as follows: “orderly development of the Naval Petroleum Reserves to the extent authorized by law;”.

Subsecs. (c) to (e). Pub. L. 106-469, §103(14)(D), struck out subsecs. (c) to (e) which related to fill operations by the President, disposition of crude oil from Naval Petroleum Reserve Numbered 1, and suspensions of fill operations during emergency situations.

Subsec. (g). Pub. L. 106-469, §103(14)(D), struck out subsec. (g) which required the Secretary to conduct a test program of storage of refined petroleum products within the Reserve.

1995—Subsec. (g)(7). Pub. L. 104-66 struck out par. (7) which read as follows: “No later than January 31, 1994, the Secretary shall transmit to the Congress a report on the test program. The report shall evaluate the mechanisms demonstrated under the test program, other potential mechanisms, and the purchase of facilities. The report shall include an assessment of the costs and benefits of the various mechanisms. The report shall also make recommendations with regard to future storage of refined petroleum products and contain drafts of any legislative provisions which the Secretary wishes to recommend.”

1992—Subsec. (d)(2). Pub. L. 102-486, §1405, redesignated cls. (i) to (iii) as pars. (A) to (C), respectively, and struck out former par. (A) designation after “(2)”.

Subsec. (h). Pub. L. 102-486, §1404(a), added subsec. (h).

1990—Subsec. (c)(3). Pub. L. 101-383, §4(b)(1), substituted “fiscal year 1994” for “fiscal years 1988 and 1989” and “1,000,000,000” for “at least 750,000,000”.

Subsec. (d)(1)(A). Pub. L. 101-383, §4(c), inserted “Government owned facilities of” after “within”.

Subsec. (d)(1)(B). Pub. L. 101-383, §4(b)(2), inserted before period at end “and the Secretary has amended the Strategic Petroleum Reserve Plan as required by section 6239(j) of this title”.

Subsec. (d)(4). Pub. L. 101-383, §5(b)(3), added par. (4).

Subsec. (f). Pub. L. 101-383, §5(a), added subsec. (f).

Subsec. (g). Pub. L. 101-548 inserted “with regard to future storage of refined petroleum products and” after “recommendations” in par. (7).

Pub. L. 101-383, §7, added subsec. (g).

1986—Subsec. (c)(3). Pub. L. 99-509, §3202(a), substituted “fiscal year 1987 and continuing through fiscal years 1988 and 1989” for “fiscal year 1986 and continuing through fiscal years 1987 and 1988”, “750,000,000 barrels” for “527,000,000 barrels”, and “at the highest practicable fill rate achievable, subject to the availability of appropriated funds” for “at a level sufficient to assure a minimum average annual fill-rate of at least 35,000 barrels per day in addition to any petroleum products acquired for the Reserve to replace petroleum products withdrawn from the Reserve as a result of a test drawdown and distribution”.

Pub. L. 99-272, §7102(a), added par. (3).

Subsec. (d)(1)(A). Pub. L. 99-509, §3202(b)(1), substituted “750,000,000 barrels” for “527,000,000 barrels”.

Pub. L. 99-272, §7102(b)(1), substituted “527,000,000 barrels” for “500,000,000 barrels”.

Subsec. (d)(1)(B). Pub. L. 99-509, §3202(b)(2), substituted “75,000 barrels” for “100,000 barrels”, and substituted a period for “; or”.

Subsec. (d)(1)(C). Pub. L. 99-509, §3202(b)(3), struck out subpar. (C) which read as follows: “acquisition, transportation, and injection activities for the Reserve are being undertaken, beginning in fiscal year 1986 and continuing through fiscal years 1987 and 1988 until the quantity of crude oil in storage within the Reserve is at least 527,000,000 barrels, at a level sufficient to assure that petroleum products in storage in the Reserve will be increased at a minimum average rate of at least 35,000 barrels per day in addition to any petroleum products acquired for the Reserve to replace petroleum products withdrawn from the Reserve as a result of a test drawdown and distribution”.

Pub. L. 99-272, §7102(b)(2), added subpar. (C) and struck out former subpar. (C) which read as follows: “the fill rate is sufficient to attain a level of 500,000,000 barrels by the end of the fiscal year during which the fill rate falls below the rate established in (B).”

1985—Subsec. (d)(1)(C). Pub. L. 99-88 added subpar. (C).

Subsec. (d)(3). Pub. L. 99-58, §103(b)(1), added par. (3).

Subsec. (e)(1)(B). Pub. L. 99-58, §102(b)(1), (2), inserted “and” at end of cl. (i), inserted a period following “to the Congress”, and struck out “in accordance with section 6422 of this title, together with a request for a suspension of such provisions; and” in cl. (ii), and struck out cl. (iii) which directed that provisions of subsecs. (c) and (d) of this section would not apply if a Presidential request for the suspension of such provisions was approved by a resolution of each House of Congress within 60 days of continuous session after the date of its transmittal in accordance with provisions of section 6422 of this title applicable to energy conservation contingency plans.

Subsec. (e)(2). Pub. L. 99-58, §102(b)(3), substituted “may become effective on the day the finding is transmitted to the Congress and shall terminate nine months thereafter or on such earlier date as is specified in such finding” for “shall take effect on the date on which a resolution approving that request is adopted by the second House to have so approved that request and shall terminate 9 months thereafter, or such earlier date as is specified in the request transmitted under paragraph (1)(B)(ii)”.

Subsec. (e)(3), (4). Pub. L. 99-58, §102(b)(3), (4), redesignated par. (4) as (3). Former par. (3), which related to application of section 6422 of this title for purposes of par. (1)(B), was struck out.

1982—Subsec. (c). Pub. L. 97-229, §4(a)(1), substituted provisions directing the President to fill the Strategic Petroleum Reserve with petroleum products at a level sufficient to assure an increase at an annual rate of at least the minimum required fill rate, 300,000 barrels per day, until the quantity of petroleum products stored is at least 500,000,000 barrels, allowing for a lower minimum required fill rate of 220,000 barrels per day if the President finds that compliance with the 300,000 barrels per day rate would not be in the national interest, specifying the effective period of such a Presidential finding, authorizing a higher minimum required rate than the 220,000 barrels per day if funds are available in any fiscal year after fiscal year 1982, making the Impoundment Control Act of 1974 applicable to funds available under section 6247(b) and (e) of this title, and providing that, after the Strategic Petroleum Reserve reaches 500,000,000 barrels, the President shall seek to fill the Reserve at an annual rate of at least 300,000 barrels per day of petroleum products until the Reserve reaches 750,000,000 barrels for provisions directing the President to seek to fill the Strategic Petroleum Reserve with crude oil at a level sufficient to assure that crude oil in storage will be increased at an average annual rate of at least 300,000 barrels per day until the Reserve is at least 750,000,000 barrels.

Subsec. (e)(4). Pub. L. 97-229, §4(b)(2)(C), substituted “petroleum product” for “crude oil”.

1981—Subsec. (c). Pub. L. 97-35 substituted provisions respecting fill operation at a rate of 300,000 barrels per day for provisions respecting fill operation at a rate of 100,000 barrels per day.

1980—Subsec. (c). Pub. L. 96-294, §801(a), added subsec. (c).

Subsec. (d). Pub. L. 96-294, §802(a), added subsec. (d).

Subsec. (e). Pub. L. 96-294, §803, added subsec. (e).

1978—Pub. L. 95-619 substituted “Secretary” for “Administrator”, meaning Administrator of the Federal Energy Administration, wherever appearing.

#### EFFECTIVE DATE OF 1982 AMENDMENT

Pub. L. 97-229, §4(a)(2), Aug. 3, 1982, 96 Stat. 251, provided that: “The amendment made by paragraph (1) [amending this section] shall take effect July 1, 1982.”

#### EFFECTIVE DATE OF 1981 AMENDMENT

Pub. L. 97-35, title X, §1038, Aug. 13, 1981, 95 Stat. 621, provided that: “The provisions of this title [enacting sections 6247, 8341, and 8484 of this title, amending this section and sections 6245, 6246, 6831 to 6833, 6835, 6837 to 6839, 8372, 8421, 8422, and 8803 of this title, repealing sections 6834, 6836 and 8341 of this title, and enacting provisions set out as notes under sections 6201, 6231, 6247, 7270, and 8341 of this title, section 3620 of Title 12, Banks and Banking, and section 719e of Title 15, Commerce and Trade] shall take effect on the date of enactment of this Act [Aug. 13, 1981].”

#### EFFECTIVE DATE OF 1980 AMENDMENT

Pub. L. 96-294, title VIII, §801(b), June 30, 1980, 94 Stat. 775, provided that: “The amendment made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [June 30, 1980], and shall apply with respect to the entirety of fiscal year 1981 (and each fiscal year thereafter).”

Pub. L. 96-294, title VIII, §802(b), June 30, 1980, 94 Stat. 776, provided that: “The amendments made by subsection (a) [amending this section] shall take effect October 1, 1980.”

#### FILLING STRATEGIC PETROLEUM RESERVE TO CAPACITY

Pub. L. 109-58, title III, §301(e)(1), Aug. 8, 2005, 119 Stat. 684, provided that: “The Secretary [of Energy] shall, as expeditiously as practicable, without incurring excessive cost or appreciably affecting the price of

petroleum products to consumers, acquire petroleum in quantities sufficient to fill the Strategic Petroleum Reserve to the 1,000,000,000-barrel capacity authorized under section 154(a) of the Energy Policy and Conservation Act (42 U.S.C. 6234(a)), in accordance with the sections 159 and 160 of that Act (42 U.S.C. 6239, 6240).”

#### PROCEDURES FOR ACQUISITION OF PETROLEUM FOR RESERVE

Pub. L. 109-58, title III, §301(e)(2)(B), (C), Aug. 8, 2005, 119 Stat. 684, 685, provided that:

“(B) REVIEW OF REQUESTS FOR DEFERRALS OF SCHEDULED DELIVERIES.—The procedures developed under section 160(c) of the Energy Policy and Conservation Act [42 U.S.C. 6240(c)], as added by subparagraph (A), shall include procedures and criteria for the review of requests for the deferrals of scheduled deliveries.

“(C) DEADLINES.—The Secretary [of Energy] shall—

“(i) propose the procedures required under the amendment made by subparagraph (A) [amending this section] not later than 120 days after the date of enactment of this Act [Aug. 8, 2005];

“(ii) promulgate the procedures not later than 180 days after the date of enactment of this Act; and

“(iii) comply with the procedures in acquiring petroleum for the Reserve effective beginning on the date that is 180 days after the date of enactment of this Act.”

#### SUSPENSION OF TEST PROGRAM REQUIREMENTS DURING FISCAL YEAR 1994

Pub. L. 103-138, title II, Nov. 11, 1993, 107 Stat. 1406, provided in part that requirements of subsec. (g) of this section would not apply in fiscal year 1994.

#### STUDY AND REPORT ON OIL LEASING AND OTHER ARRANGEMENTS TO FILL SPR TO ONE BILLION BARRELS

Pub. L. 101-46, §2, June 30, 1989, 103 Stat. 132, directed Secretary of Energy to conduct a study on potential financial arrangements, including long-term leasing of crude oil and storage facilities, that could be used to provide additional, alternative means of financing the filling of the Strategic Petroleum Reserve to one billion barrels and directed Secretary to transmit an interim report to Committee on Energy and Natural Resources of Senate and Committee on Energy and Commerce of House of Representatives no later than Oct. 15, 1989, and no later than Feb. 1, 1990, to transmit to such committees a copy of the preliminary written solicitations for proposed alternative financial arrangements to assist in filling the Strategic Petroleum Reserve to one billion barrels and a final report containing findings and conclusions together with a draft of legislative changes necessary to authorize the most significant alternative financial arrangements.

#### EXCHANGE OF AGRICULTURAL PRODUCTS FOR CRUDE OIL TO BE DELIVERED TO STRATEGIC PETROLEUM RESERVE

Pub. L. 99-190, §101(d) [title II], Dec. 19, 1985, 99 Stat. 1224, 1254, provided that: “Notwithstanding any other provision of law, the Secretary of Agriculture, at the request of the Secretary of Energy, may exchange agricultural products owned by the Commodity Credit Corporation for crude oil to be delivered to the Strategic Petroleum Reserve: *Provided*, That the Secretary of Energy shall approve the quantity, quality, delivery method, scheduling, market value and other aspects of the exchange of such agricultural products: *Provided further*, That if the volume of agricultural products to be exchanged has a value in excess of the market value of the crude oil acquired by such exchange, then the Secretary of Agriculture shall require as part of the terms and conditions of the exchange that the party or entity providing such crude oil shall agree to purchase, within six months following the exchange, current crop commodities or value-added food products from United States producers or processors in an amount equal to at least one-half the difference between the value of the

commodities received in exchange and the market value of the crude oil acquired for the Strategic Petroleum Reserve.”

ALLOCATION TO STRATEGIC PETROLEUM RESERVE OF LOWER TIER CRUDE OIL AND FEDERAL ROYALTY OIL; PROCEDURES APPLICABLE, AUTHORITIES, ETC.

Pub. L. 96-294, title VIII, §805, June 30, 1980, 94 Stat. 777, provided that:

“(a)(1) In order to carry out the requirement of the amendment made by section 801 of this Act [amending this section and enacting provision set out as a note above] and to carry out the policies and objectives established in sections 151 and 160(b)(1) of the Energy Policy and Conservation Act (42 U.S.C. 6231 and 6240(b)(1)) the President shall, within 60 days after the date of the enactment of this Act [June 30, 1980], promulgate and make effective an amendment to the provisions of the regulation under section 4(a) of the Emergency Petroleum Allocation Act of 1973 [15 U.S.C. 753(a)] relating to entitlements, which has the same effect as allocating lower tier crude oil to the Government for storage in the Strategic Petroleum Reserve. Such amendment shall not apply with respect to crude oil purchased after September 30, 1981, for storage in such reserve.

“(2) The authority provided by this subsection shall be in addition to, and shall not be deemed to limit, any other authority available to the President under the Emergency Petroleum Allocation Act of 1973 [15 U.S.C. 751 et seq.] or any other law.

“(3) The President or his delegate may promulgate and make effective rules or orders to implement this subsection without regard to the requirements of section 501 of the Department of Energy Organization Act [42 U.S.C. 7191] or any other law or regulation specifying procedural requirements.

“(b) In addition to the requirement under subsection (a), the President may direct that—

“(1) all or any portion of Federal royalty oil be placed in storage in the Reserve,

“(2) all or any portion of Federal royalty oil be exchanged, directly or indirectly, for other crude oil for storage in the Reserve, or

“(3) all or any portion of the proceeds from the sales of Federal royalty oil be transferred to the account established under subsection (c) for use for the purchase of crude oil for the Reserve, as provided in subsection (c).

“(c)(1) Any proceeds—

“(A) from the sale of entitlements received by the Government under the amendment to the regulation made under subsection (a), and

“(B) to the extent provided in subsection (b), from the sale of Federal royalty oil,

shall be deposited in a special account which the Secretary of the Treasury shall establish on the books of the Treasury of the United States.

“(2)(A) Subject to the provisions of any Act enacted pursuant to section 660 of the Department of Energy Organization Act [42 U.S.C. 7270], such account shall be available (except as provided in subparagraph (B)) for use by the Secretary of Energy, without fiscal year limitation, for the purchase of crude oil for the Strategic Petroleum Reserve, to the extent provided in advance in appropriation Acts.

“(B) Amounts in such account attributable to the proceeds from the sale of entitlements under the amendment to the regulation under subsection (a) are hereby appropriated for fiscal year 1981 for acquisition of crude oil for the Strategic Petroleum Reserve pursuant to subsection (a).

“(d) For purposes of this section—

“(1) the terms ‘entitlements’, ‘crude oil’, and ‘allocation’ shall have the same meaning as those terms have as used in the Emergency Petroleum Allocation Act of 1973 [15 U.S.C. 751 et seq.] (and the regulation thereunder);

“(2) the term ‘lower tier crude oil’ means crude oil which is subject to the price ceiling established under section 212.73 of title 10, Code of Federal Regulations;

“(3) the term ‘Federal royalty oil’ means crude oil which the United States is entitled to receive in kind as royalties from production on Federal land (as such term is defined in section 3(10) of the Energy Policy and Conservation Act (42 U.S.C. 6202(10))); and

“(4) the term ‘proceeds from the sale of Federal royalty oil’ means that portion of the amounts deposited into the Treasury of the United States from the sale of Federal royalty oil which is not otherwise required to be disposed of (other than as miscellaneous receipts) pursuant to (A) the provisions of section 35 of the Act of February 25, 1920, as amended (41 Stat. 450; 30 U.S.C. 191), commonly known as the Mineral Lands Leasing Act, or (B) the provisions of any other law.”

RATE OF FILL OF STRATEGIC PETROLEUM RESERVE

Pub. L. 96-514, title II, Dec. 12, 1980, 94 Stat. 2976, provided in part: “That the President shall immediately seek to undertake, and thereafter continue, crude oil acquisition, transportation, and injection activities at a level sufficient to assure that crude oil storage in the Strategic Petroleum Reserve will be increased to an average annual rate of at least 300,000 barrels per day or a sustained average annual daily rate of fill which would fully utilize appropriated funds: *Provided*, That the requirements of the preceding provision shall be in addition to the provisions of title VIII of the Energy Security Act [title VIII of Pub. L. 96-294, which amended this section and section 7430 of Title 10, Armed Forces, and enacted provisions set out as a note above] and shall not affect such provisions of the Energy Security Act in any way.”

EX. ORD. NO. 12231. STRATEGIC PETROLEUM RESERVE

Ex. Ord. No. 12231, Aug. 4, 1980, 45 F.R. 52139, provided:

By the authority vested in me as President of the United States of America by Title VIII of the Energy Security Act (Public Law 96-294) [title VIII of Pub. L. 96-294, which amended this section and section 7430 of Title 10, Armed Forces, and enacted provisions set out as a note above] and by Section 301 of Title 3 of the United States Code, and in order to meet the goals and requirements for the strategic petroleum reserve, it is hereby ordered as follows:

1-101. The functions vested in the President by Section 160(c) of the Energy Policy and Conservation Act, as amended, are delegated to the Secretary of Energy (42 U.S.C. 6240(c); see Section 801 of the Energy Security Act).

1-102. The functions vested in the President by Section 7430(k) of Title 10 of the United States Code are delegated to the Secretary of Energy (see Section 804(b) of the Energy Security Act).

1-103. The functions vested in the President by Section 805(a) of the Energy Security Act [section 805(a) of Pub. L. 96-294, set out as a note above] are, consistent with Section 2 of Executive Order No. 11790, as amended [set out as a note under section 761 of Title 15, Commerce and Trade], delegated to the Secretary of Energy.

JIMMY CARTER.

**§ 6241. Drawdown and sale of petroleum products**

**(a) Power of Secretary**

The Secretary may drawdown and sell petroleum products in the Reserve only in accordance with the provisions of this section.

**(b), (c) Repealed. Pub. L. 106-469, title I, § 103(15)(C), Nov. 9, 2000, 114 Stat. 2031**

**(d) Presidential finding prerequisite to drawdown and sale**

(1) Drawdown and sale of petroleum products from the Strategic Petroleum Reserve may not



be made unless the President has found drawdown and sale are required by a severe energy supply interruption or by obligations of the United States under the international energy program.

(2) For purposes of this section, in addition to the circumstances set forth in section 6202(8) of this title, a severe energy supply interruption shall be deemed to exist if the President determines that—

(A) an emergency situation exists and there is a significant reduction in supply which is of significant scope and duration;

(B) a severe increase in the price of petroleum products has resulted from such emergency situation; and

(C) such price increase is likely to cause a major adverse impact on the national economy.

**(e) Sales procedures**

(1) The Secretary shall sell petroleum products withdrawn from the Strategic Petroleum Reserve at public sale to the highest qualified bidder in the amounts, for the period, and after a notice of sale considered appropriate by the Secretary, and without regard to Federal, State, or local regulations controlling sales of petroleum products.

(2) The Secretary may cancel in whole or in part any offer to sell petroleum products as part of any drawdown and sale under this section.

**(f) Repealed. Pub. L. 106-469, title I, § 103(15)(C), Nov. 9, 2000, 114 Stat. 2031**

**(g) Directive to carry out test drawdown and sale**

(1) The Secretary shall conduct a continuing evaluation of the drawdown and sales procedures. In the conduct of an evaluation, the Secretary is authorized to carry out a test drawdown and sale or exchange of petroleum products from the Reserve. Such a test drawdown and sale or exchange may not exceed 5,000,000 barrels of petroleum products.

(2) Repealed. Pub. L. 106-469, title I, § 103(15)(F)(ii), Nov. 9, 2000, 114 Stat. 2031.

(3) At least part of the crude oil that is sold or exchanged under this subsection shall be sold or exchanged to or with entities that are not part of the Federal Government.

(4) The Secretary may not sell any crude oil under this subsection at a price less than that which the Secretary determines appropriate and, in no event, at a price less than 95 percent of the sales price, as estimated by the Secretary, of comparable crude oil being sold in the same area at the time the Secretary is offering crude oil for sale in such area under this subsection.

(5) The Secretary may cancel any offer to sell or exchange crude oil as part of any test under this subsection if the Secretary determines that there are insufficient acceptable offers to obtain such crude oil.

(6) In the case of a sale of any petroleum products under this subsection, the Secretary shall, to the extent funds are available in the SPR Petroleum Account as a result of such sale, acquire petroleum products for the Reserve within the 12-month period beginning after completion of the sale.

(7) Rules, regulations, or orders issued in order to carry out this subsection which have the applicability and effect of a rule as defined in section 551(4) of title 5 shall not be subject to the requirements of subchapter II of chapter 5 of such title or to section 6393 of this title.

**(8) NOTICE TO CONGRESS.—**

(A) PRIOR NOTICE.—Not less than 14 days before the date on which a test is carried out under this subsection, the Secretary shall notify both Houses of Congress of the test.

(B) EMERGENCY.—The prior notice requirement in subparagraph (A) shall not apply if the Secretary determines that an emergency exists which requires a test to be carried out, in which case the Secretary shall notify both Houses of Congress of the test as soon as possible.

**(C) DETAILED DESCRIPTION.—**

(i) IN GENERAL.—Not later than 180 days after the date on which a test is completed under this subsection, the Secretary shall submit to both Houses of Congress a detailed description of the test.

(ii) REPORT.—A detailed description submitted under clause (i) may be included as part of a report made to the President and Congress under section 6245 of this title.

**(h) Prevention or reduction of adverse impact of severe domestic energy supply interruptions**

(1) If the President finds that—

(A) a circumstance, other than those described in subsection (d), exists that constitutes, or is likely to become, a domestic or international energy supply shortage of significant scope or duration;

(B) action taken under this subsection would assist directly and significantly in preventing or reducing the adverse impact of such shortage;

(C) the Secretary has found that action taken under this subsection will not impair the ability of the United States to carry out obligations of the United States under the international energy program; and

(D) the Secretary of Defense has found that action taken under this subsection will not impair national security,

then the Secretary may, subject to the limitations of paragraph (2), draw down and sell petroleum products from the Strategic Petroleum Reserve.

(2) Petroleum products from the Reserve may not be drawn down under this subsection—

(A) in excess of an aggregate of 30,000,000 barrels with respect to each such shortage;

(B) for more than 60 days with respect to each such shortage;

(C) if there are fewer than 340,000,000 barrels of petroleum product stored in the Reserve; or

(D) below the level of an aggregate of 340,000,000 barrels of petroleum product stored in the Reserve.

(3) During any period in which there is a drawdown and sale of the Reserve in effect under this subsection, the Secretary shall transmit a monthly report to the Congress containing an account of the drawdown and sale of petroleum products under this subsection and an assessment of its effect.

(4) In no case may the drawdown under this subsection be extended beyond 60 days with respect to any domestic energy supply shortage.

**(i) Exchange of withdrawn products**

Notwithstanding any other law, the President may permit any petroleum products withdrawn from the Strategic Petroleum Reserve in accordance with this section to be sold and delivered for refining or exchange outside of the United States, in connection with an arrangement for the delivery of refined petroleum products to the United States.

**(j) Purchases from Strategic Petroleum Reserve by entities in insular areas of United States and Freely Associated States**

**(1) Definitions**

In this subsection:

**(A) Binding offer**

The term “binding offer” means a bid submitted by the State of Hawaii for an assured award of a specific quantity of petroleum product, with a price to be calculated pursuant to paragraph (2) of this subsection, that obligates the offeror to take title to the petroleum product without further negotiation or recourse to withdraw the offer.

**(B) Category of petroleum product**

The term “category of petroleum product” means a master line item within a notice of sale.

**(C) Eligible entity**

The term “eligible entity” means an entity that owns or controls a refinery that is located within the State of Hawaii.

**(D) Full tanker load**

The term “full tanker load” means a tanker of approximately 700,000 barrels of capacity, or such lesser tanker capacity as may be designated by the State of Hawaii.

**(E) Insular area**

The term “insular area” means the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the United States Virgin Islands, Guam, American Samoa, the Freely Associated States of the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

**(F) Offering**

The term “offering” means a solicitation for bids for a quantity or quantities of petroleum product from the Strategic Petroleum Reserve as specified in the notice of sale.

**(G) Notice of sale**

The term “notice of sale” means the document that announces—

- (i) the sale of Strategic Petroleum Reserve products;
- (ii) the quantity, characteristics, and location of the petroleum product being sold;
- (iii) the delivery period for the sale; and
- (iv) the procedures for submitting offers.

**(2) In general**

In the case of an offering of a quantity of petroleum product during a drawdown of the Strategic Petroleum Reserve—

(A) the State of Hawaii, in addition to having the opportunity to submit a competitive bid, may—

(i) submit a binding offer, and shall on submission of the offer, be entitled to purchase a category of a petroleum product specified in a notice of sale at a price equal to the volumetrically weighted average of the successful bids made for the remaining quantity of the petroleum product within the category that is the subject of the offering; and

(ii) submit one or more alternative offers, for other categories of the petroleum product, that will be binding if no price competitive contract is awarded for the category of petroleum product on which a binding offer is submitted under clause (i); and

(B) at the request of the Governor of the State of Hawaii, a petroleum product purchased by the State of Hawaii at a competitive sale or through a binding offer shall have first preference in scheduling for lifting.

**(3) Limitation on quantity**

**(A) In general**

In administering this subsection, in the case of each offering, the Secretary may impose the limitation described in subparagraph (B) or (C) that results in the purchase of the lesser quantity of petroleum product.

**(B) Portion of quantity of previous imports**

The Secretary may limit the quantity of a petroleum product that the State of Hawaii may purchase through a binding offer at any offering to 1/12 of the total quantity of imports of the petroleum product brought into the State during the previous year (or other period determined by the Secretary to be representative).

**(C) Percentage of offering**

The Secretary may limit the quantity that may be purchased through binding offers at any offering to 3 percent of the offering.

**(4) Adjustments**

**(A) In general**

Notwithstanding any limitation imposed under paragraph (3), in administering this subsection, in the case of each offering, the Secretary shall, at the request of the Governor of the State of Hawaii, or an eligible entity certified under paragraph (7), adjust the quantity to be sold to the State of Hawaii in accordance with this paragraph.

**(B) Upward adjustment**

The Secretary shall adjust upward to the next whole number increment of a full tanker load if the quantity to be sold is—

- (i) less than 1 full tanker load; or
- (ii) greater than or equal to 50 percent of a full tanker load more than a whole number increment of a full tanker load.

**(C) Downward adjustment**

The Secretary shall adjust downward to the next whole number increment of a full

tanker load if the quantity to be sold is less than 50 percent of a full tanker load more than a whole number increment of a full tanker load.

#### (5) Delivery to other locations

The State of Hawaii may enter into an exchange or a processing agreement that requires delivery to other locations, if a petroleum product of similar value or quantity is delivered to the State of Hawaii.

#### (6) Standard sales provisions

Except as otherwise provided in this chapter, the Secretary may require the State of Hawaii to comply with the standard sales provisions applicable to purchasers of petroleum products at competitive sales.

#### (7) Eligible entities

##### (A) In general

Subject to subparagraphs (B) and (C) and notwithstanding any other provision of this paragraph, if the Governor of the State of Hawaii certifies to the Secretary that the State has entered into an agreement with an eligible entity to carry out this chapter, the eligible entity may act on behalf of the State of Hawaii to carry out this subsection.

##### (B) Limitation

The Governor of the State of Hawaii shall not certify more than one eligible entity under this paragraph for each notice of sale.

##### (C) Barred company

If the Secretary has notified the Governor of the State of Hawaii that a company has been barred from bidding (either prior to, or at the time that a notice of sale is issued), the Governor shall not certify the company under this paragraph.

#### (8) Supplies of petroleum products

At the request of the Governor of an insular area, the Secretary shall, for a period not to exceed 180 days following a drawdown of the Strategic Petroleum Reserve, assist the insular area or the President of a Freely Associated State in its efforts to maintain adequate supplies of petroleum products from traditional and nontraditional suppliers.

(Pub. L. 94-163, title I, §161, Dec. 22, 1975, 89 Stat. 888; Pub. L. 95-619, title VI, §691(b)(2), Nov. 9, 1978, 92 Stat. 3288; Pub. L. 99-58, title I, §103(a), (b)(2), July 2, 1985, 99 Stat. 103, 104; Pub. L. 101-383, §§3(b), 8, 10, Sept. 15, 1990, 104 Stat. 727, 735; Pub. L. 102-486, title XIV, §1401, Oct. 24, 1992, 106 Stat. 2993; Pub. L. 105-388, §9(a), Nov. 13, 1998, 112 Stat. 3482; Pub. L. 106-469, title I, §103(15), Nov. 9, 2000, 114 Stat. 2031; Pub. L. 114-74, title IV, §401(a), Nov. 2, 2015, 129 Stat. 588; Pub. L. 114-255, div. A, title V, §5010(c), Dec. 13, 2016, 130 Stat. 1198; Pub. L. 115-123, div. C, title II, §30204(c), Feb. 9, 2018, 132 Stat. 127; Pub. L. 115-141, div. O, title V, §501(c), Mar. 23, 2018, 132 Stat. 1080.)

#### REFERENCES IN TEXT

This chapter, referred to in subsec. (j)(6), (7)(A), was in the original “this Act”, meaning Pub. L. 94-163, Dec. 22, 1975, 89 Stat. 871, as amended, known as the Energy Policy and Conservation Act. For complete classifica-

tion of this Act to the Code, see Short Title note set out under section 6201 of this title and Tables.

#### AMENDMENTS

2018—Subsec. (h)(1)(C), (D). Pub. L. 115-123, §30204(c)(1), added subpar. (C) and redesignated former subpar. (C) as (D).

Subsec. (h)(2)(C), (D). Pub. L. 115-141 substituted “340,000,000” for “350,000,000”.

Pub. L. 115-123, §30204(c)(2), substituted “350,000,000” for “450,000,000”.

2016—Subsec. (h)(2)(C), (D). Pub. L. 114-255 substituted “450,000,000” for “500,000,000”.

2015—Subsec. (g)(8). Pub. L. 114-74 added par. (8) and struck out former par. (8) which read as follows: “The Secretary shall transmit to both Houses of the Congress a detailed explanation of the test carried out under this subsection. Such explanation may be a part of any report made to the President and the Congress under section 6245 of this title.”

2000—Pub. L. 106-469, §103(15)(A), substituted “sale of petroleum products” for “distribution of the Reserve” in section catchline.

Subsec. (a). Pub. L. 106-469, §103(15)(B), substituted “drawdown and sell petroleum products in” for “drawdown and distribute”.

Subsec. (b). Pub. L. 106-469, §103(15)(C), struck out subsec. (b) which read as follows: “Except as provided in subsections (c), (f), and (g) of this section, no drawdown and distribution of the Reserve may be made except in accordance with the provisions of the Distribution Plan contained in the Strategic Petroleum Reserve Plan which has taken effect pursuant to section 6239(a) of this title.”

Subsec. (c). Pub. L. 106-469, §103(15)(C), struck out subsec. (c) which read as follows: “Drawdown and distribution of the Early Storage Reserve may be made in accordance with the provisions of the Distribution Plan contained in the Early Storage Reserve Plan until the Strategic Petroleum Reserve Plan has taken effect pursuant to section 6239(a) of this title.”

Subsec. (d)(1). Pub. L. 106-469, §103(15)(D), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “Neither the Distribution Plan contained in the Strategic Petroleum Reserve Plan nor the Distribution Plan contained in the Early Storage Reserve Plan may be implemented, and no drawdown and distribution of the Reserve or the Early Storage Reserve may be made, unless the President has found that implementation of either such Distribution Plan is required by a severe energy supply interruption or by obligations of the United States under the international energy program.”

Subsec. (e). Pub. L. 106-469, §103(15)(E), amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows: “The Secretary may, by rule, provide for the allocation of any petroleum product withdrawn from the Strategic Petroleum Reserve in amounts specified in (or determined in a manner prescribed by) and at prices specified in (or determined in a manner prescribed by) such rules. Such price levels and allocation procedures shall be consistent with the attainment, to the maximum extent practicable, of the objectives specified in section 753(b)(1) of title 15.”

Subsec. (f). Pub. L. 106-469, §103(15)(C), struck out subsec. (f) which read as follows: “The Secretary may permit any importer or refiner who owns any petroleum products stored in the Industrial Petroleum Reserve pursuant to section 6236 of this title to remove or otherwise dispose of such products upon such terms and conditions as the Secretary may prescribe.”

Subsec. (g)(1). Pub. L. 106-469, §103(15)(F)(i), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “The Secretary shall conduct a continuing evaluation of the Distribution Plan. In the conduct of such evaluation, the Secretary is authorized to carry out test drawdown and distribution of crude oil from the Reserve. If any such test drawdown includes the sale or exchange of crude oil, then the aggregate quantity of crude oil withdrawn from the Reserve may not

exceed 5,000,000 barrels during any such test drawdown or distribution.”

Subsec. (g)(2). Pub. L. 106-469, §103(15)(F)(ii), struck out par. (2) which read as follows: “The Secretary shall carry out such drawdown and distribution in accordance with the Distribution Plan and implementing regulations and contract provisions, modified as the Secretary considers appropriate taking into consideration the artificialities of a test and the absence of a severe energy supply interruption. To meet the requirements of subsections (d) and (e) of section 6239 of this title, the Secretary shall transmit any such modification of the Plan, along with explanatory and supporting material, to both Houses of the Congress no later than 15 calendar days prior to the offering of any crude oil for sale under this subsection.”

Subsec. (g)(4). Pub. L. 106-469, §103(15)(F)(iii), substituted “95 percent” for “90 percent”.

Subsec. (g)(5). Pub. L. 106-469, §103(15)(F)(iv), substituted “test” for “drawdown and distribution”.

Subsec. (g)(6). Pub. L. 106-469, §103(15)(F)(v), amended par. (6) generally. Prior to amendment, par. (6) read as follows:

“(6)(A) The minimum required fill rate in effect for any fiscal year shall be reduced by the amount of any crude oil drawdown from the Reserve under this subsection during such fiscal year.

“(B) In the case of a sale of any crude oil under this subsection, the Secretary shall, to the extent funds are available in the SPR Petroleum Account as a result of such sale, acquire crude oil for the Reserve within the 12-month period beginning after the completion of the sale. Such acquisition shall be in addition to any acquisition of crude oil for the Reserve required as part of a fill rate established by any other provision of law.”

Subsec. (g)(8). Pub. L. 106-469, §103(15)(F)(vi), substituted “test” for “drawdown and distribution”.

Subsec. (h)(1). Pub. L. 106-469, §103(15)(G)(i), substituted “sell petroleum products from” for “distribute” in concluding provisions.

Subsec. (h)(1)(C). Pub. L. 106-469, §103(15)(G)(ii), added subpar. (C).

Subsec. (h)(2). Pub. L. 106-469, §103(15)(G)(iii), substituted “Petroleum products from the Reserve may not” for “In no case may the Reserve” in introductory provisions.

Subsec. (h)(3). Pub. L. 106-469, §103(15)(G)(iv), substituted “sale” for “distribution” in two places.

1998—Subsec. (j). Pub. L. 105-388 added subsec. (j).

1992—Subsec. (d). Pub. L. 102-486, §1401(1), designated existing provisions as par. (1) and added par. (2).

Subsec. (h)(1)(A). Pub. L. 102-486, §1401(2), inserted “or international” after “domestic”.

1990—Subsec. (g)(1). Pub. L. 101-383, §8, amended par. (1) generally. Prior to amendment, par. (1) read as follows: “In order to evaluate the implementation of the Distribution Plan, the Secretary shall, commencing within 180 days after July 2, 1985, carry out a test drawdown and distribution under this subsection through the sale or exchange of approximately 1,100,000 barrels of crude oil from the Reserve. The requirement of this paragraph shall not apply if the President determines, within the 180-day period described in the preceding sentence, that implementation of the Distribution Plan is required by a severe energy supply interruption or by obligations of the United States under the international energy program.”

Subsec. (h). Pub. L. 101-383, §3(b), added subsec. (h).

Subsec. (i). Pub. L. 101-383, §10, added subsec. (i).

1985—Subsec. (b). Pub. L. 99-58, §103(b)(2), inserted reference to subsec. (g) of this section.

Subsec. (g). Pub. L. 99-58, §103(a), added subsec. (g).

1978—Subsecs. (a), (e), (f). Pub. L. 95-619 substituted “Secretary” for “Administrator”, meaning Administrator of the Federal Energy Administration, wherever appearing.

#### EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-388, §9(c), Nov. 13, 1998, 112 Stat. 3484, provided that: “The amendment made by subsection (a) [amending this section] takes effect on the earlier of—

“(1) the date that is 180 days after the date of enactment of this Act [Nov. 13, 1998]; or

“(2) the date that final regulations are issued under subsection (b) [set out as a note below].”

#### REGULATIONS

Pub. L. 105-388, §9(b), Nov. 13, 1998, 112 Stat. 3484, provided that:

“(1) IN GENERAL.—The Secretary of Energy shall issue such regulations as are necessary to carry out the amendment made by subsection (a) [amending this section].

“(2) ADMINISTRATIVE PROCEDURE.—Regulations issued to carry out the amendment made by subsection (a) shall not be subject to—

“(A) section 523 of the Energy Policy and Conservation Act (42 U.S.C. 6393); or

“(B) section 501 of the Department of Energy Organization Act (42 U.S.C. 7191).”

#### STRATEGIC PETROLEUM RESERVE DRAWDOWN AND SALE

Provisions related to drawdown and sale from the Strategic Petroleum Reserve were contained in the following acts:

Pub. L. 116-94, div. C, title III, Dec. 20, 2019, 133 Stat. 2671.

Pub. L. 115-270, title III, §3009, Oct. 23, 2018, 132 Stat. 3870.

Pub. L. 115-244, div. A, title III, Sept. 21, 2018, 132 Stat. 2908.

Pub. L. 115-141, div. D, title III, Mar. 23, 2018, 132 Stat. 520.

Pub. L. 115-141, div. O, title V, §501(a), (b), Mar. 23, 2018, 132 Stat. 1079, 1080.

Pub. L. 115-123, div. C, title II, §30204(a), (b), Feb. 9, 2018, 132 Stat. 126, 127.

Pub. L. 115-97, title II, §20003, Dec. 22, 2017, 131 Stat. 2237.

Pub. L. 115-56, div. D, §158, as added by Pub. L. 115-123, div. B, §20101(2), Feb. 9, 2018, 132 Stat. 120.

Pub. L. 114-255, div. A, title V, §5010(a), (b), Dec. 13, 2016, 130 Stat. 1197, 1198.

Pub. L. 114-94, div. C, title XXXII, §32204, Dec. 4, 2015, 129 Stat. 1740.

Pub. L. 114-74, title IV, §403, Nov. 2, 2015, 129 Stat. 589.

#### § 6242. Coordination with import quota system

No quantitative restriction on the importation of any petroleum product into the United States imposed by law shall apply to volumes of any such petroleum product imported into the United States for storage in the Reserve.

(Pub. L. 94-163, title I, §162, Dec. 22, 1975, 89 Stat. 889.)

#### § 6243. Records and accounts

##### (a) Preparation and maintenance

The Secretary may require any person to prepare and maintain such records or accounts as the Secretary, by rule, determines necessary to carry out the purposes of this part.

##### (b) Audit of operations of storage facility

The Secretary may audit the operations of any storage facility in which any petroleum product is stored or required to be stored pursuant to the provisions of this part.

##### (c) Access to and inspection of records or accounts and storage facilities

The Secretary may require access to, and the right to inspect and examine, at reasonable times, (1) any records or accounts required to be prepared or maintained pursuant to subsection (a) and (2) any storage facilities subject to audit

by the United States under the authority of this part.

(Pub. L. 94-163, title I, §163, Dec. 22, 1975, 89 Stat. 889; Pub. L. 95-619, title VI, §691(b)(2), Nov. 9, 1978, 92 Stat. 3288.)

#### AMENDMENTS

1978—Pub. L. 95-619 substituted “Secretary” for “Administrator”, meaning Administrator of the Federal Energy Administration, wherever appearing.

#### § 6244. Repealed. Pub. L. 106-469, title I, § 103(16), Nov. 9, 2000, 114 Stat. 2032

Section, Pub. L. 94-163, title I, §164, Dec. 22, 1975, 89 Stat. 889; Pub. L. 94-258, title I, §105(a), Apr. 5, 1976, 90 Stat. 305; Pub. L. 95-619, title VI, §691(b)(2), Nov. 9, 1978, 92 Stat. 3288, required a report on development of Naval Petroleum Reserve Number 4.

#### § 6245. Annual report

The Secretary shall report annually to the President and the Congress on actions taken to implement this part. This report shall include—

(1) the status of the physical capacity of the Reserve and the type and quantity of petroleum products in the Reserve;

(2) an estimate of the schedule and cost to complete planned equipment upgrade or capital investment in the Reserve, including upgrades and investments carried out as part of operational maintenance or extension of life activities;

(3) an identification of any life-limiting conditions or operational problems at any Reserve facility, and proposed remedial actions including an estimate of the schedule and cost of implementing those remedial actions;

(4) a description of current withdrawal and distribution rates and capabilities, and an identification of any operational or other limitations on those rates and capabilities;

(5) a listing of petroleum product acquisitions made in the preceding year and planned in the following year, including quantity, price, and type of petroleum;

(6) a summary of the actions taken to develop, operate, and maintain the Reserve;

(7) a summary of the financial status and financial transactions of the Strategic Petroleum Reserve and Strategic Petroleum Reserve Petroleum Accounts for the year;

(8) a summary of expenses for the year, and the number of Federal and contractor employees;

(9) the status of contracts for development, operation, maintenance, distribution, and other activities related to the implementation of this part;

(10) a summary of foreign oil storage agreements and their implementation status;

(11) any recommendations for supplemental legislation or policy or operational changes the Secretary considers necessary or appropriate to implement this part.

(Pub. L. 94-163, title I, §165, Dec. 22, 1975, 89 Stat. 889; Pub. L. 95-619, title VI, §691(b)(2), Nov. 9, 1978, 92 Stat. 3288; Pub. L. 97-35, title X, §1035(a), Aug. 13, 1981, 95 Stat. 620; Pub. L. 99-509, title III, §3203, Oct. 21, 1986, 100 Stat. 1890; Pub. L. 104-66, title I, §1051(j), Dec. 21, 1995, 109 Stat. 717; Pub.

L. 106-469, title I, §103(17), Nov. 9, 2000, 114 Stat. 2032.)

#### AMENDMENTS

2000—Pub. L. 106-469 amended section generally. Prior to amendment, section required the Secretary to report to the President and to Congress, not later than one year after the transmittal of the Strategic Petroleum Reserve Plan to the Congress and each year thereafter, on all actions taken to implement this part.

1995—Pub. L. 104-66 struck out subsec. (a) designation before “The Secretary shall”, and struck out subsec. (b) which directed Secretary to report to Congress on activities undertaken with respect to Strategic Petroleum Reserve under the amendments made by Strategic Petroleum Reserve Amendments Act of 1981.

1986—Subsec. (a)(1). Pub. L. 99-509 amended par. (1) generally, inserting “, including” in introductory text and adding subpars. (A) to (G).

1981—Pub. L. 97-35 designated existing provisions as subsec. (a) and added subsec. (b).

1978—Pub. L. 95-619 substituted “Secretary” for “Administrator”, meaning Administrator of the Federal Energy Administration, wherever appearing.

#### EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-35 effective Aug. 13, 1981, see section 1038 of Pub. L. 97-35, set out as a note under section 6240 of this title.

#### REPORTS TO CONGRESS ON PETROLEUM SUPPLY INTERRUPTIONS

Pub. L. 97-229, §6, Aug. 3, 1982, 96 Stat. 253, provided that:

“(a) IMPACT ANALYSIS.—(1) The Secretary of Energy shall analyze the impact on the domestic economy and on consumers in the United States of reliance on market allocation and pricing during any substantial reduction in the amount of petroleum products available to the United States. In making such analysis, the Secretary of Energy may consult with the Secretary of the Treasury, the Secretary of Agriculture, the Director of the Office of Management and Budget, and the heads of other appropriate Federal agencies. Such analysis shall—

“(A) examine the equity and efficiency of such reliance,

“(B) distinguish between the impacts of such reliance on various categories of business (including small business and agriculture) and on households of different income levels,

“(C) specify the nature and administration of monetary and fiscal policies that would be followed including emergency tax cuts, emergency block grants, and emergency supplements to income maintenance programs, and

“(D) describe the likely impact on the distribution of petroleum products of State and local laws and regulations (including emergency authorities) affecting the distribution of petroleum products.

Such analysis shall include projections of the effect of the petroleum supply reduction on the price of motor gasoline, home heating oil, and diesel fuel, and on Federal tax revenues, Federal royalty receipts, and State and local tax revenues.

“(2) Within one year after the date of the enactment of this Act [Aug. 3, 1982], the Secretary of Energy shall submit a report to the Congress and the President containing the analysis required by this subsection, including a detailed step-by-step description of the procedures by which the policies specified in paragraph (1)(C) would be accomplished in an emergency, along with such recommendations as the Secretary of Energy deems appropriate.

“(b) STRATEGIC PETROLEUM RESERVE DRAWDOWN AND DISTRIBUTION REPORT.—The President shall prepare and transmit to the Congress, at the time he transmits the drawdown plan pursuant to section 4(c) [section 4(c) of Pub. L. 97-229, set out as a note under 42 U.S.C. 6234], a report containing—

“(1) a description of the foreseeable situations (including selective and general embargoes, sabotage, war, act of God, or accident) which could result in a severe energy supply interruption or obligations of the United States arising under the international energy program necessitating distributions from the Strategic Petroleum Reserve, and

“(2) a description of the strategy or alternative strategies of distribution which could reasonably be used to respond to each situation described under paragraph (1), together with the theory and justification underlying each such strategy.

The description of each strategy under paragraph (2) shall include an explanation of the methods which would likely be used to determine the price and distribution of petroleum products from the Reserve in any such distribution, and an explanation of the disposition of revenues arising from sales of any such petroleum products under the strategy.

“(c) REGIONAL RESERVE REPORT.—The President or his delegate shall submit to the Congress no later than December 31, 1982, a report regarding the actions taken to comply with the provisions of section 157 of the Energy Policy and Conservation Act (42 U.S.C. 6237). Such report shall include an analysis of the economic benefits and costs of establishing Regional Petroleum Reserves, including—

“(1) an assessment of the ability to transport petroleum products to refiners, distributors, and end users within the regions specified in section 157(a) of such Act;

“(2) the comparative costs of creating and operating Regional Petroleum Reserves for such regions as compared to the costs of continuing current plans for the Strategic Petroleum Reserve; and

“(3) a list of potential sites for Regional Petroleum Reserves.

“(d) STRATEGIC ALCOHOL FUEL RESERVE REPORT.—The Secretary of Energy shall, in consultation with the Secretary of Agriculture, prepare and transmit to the Congress no later than December 31, 1982, a study of the potential for establishing a Strategic Alcohol Fuel Reserve.

“(e) MEANING OF TERMS.—As used in this section, the terms ‘international energy program’, ‘petroleum product’, ‘Reserve’, ‘severe energy supply interruption’, and ‘Strategic Petroleum Reserve’ have the meanings given such terms in sections 3 and 152 of the Energy Policy and Conservation Act (42 U.S.C. 6202 and 6232).”

#### § 6246. Authorization of appropriations

There are authorized to be appropriated to the Secretary such sums as are necessary to carry out this part and part D, to remain available until expended.

(Pub. L. 94-163, title I, §166, as added Pub. L. 109-58, title III, §301(a)(1), Aug. 8, 2005, 119 Stat. 683.)

#### PRIOR PROVISIONS

A prior section 6246, Pub. L. 94-163, title I, §166, Dec. 22, 1975, 89 Stat. 890; Pub. L. 95-70, §4, July 21, 1977, 91 Stat. 277; Pub. L. 97-35, title X, §1034(b), Aug. 13, 1981, 95 Stat. 619; Pub. L. 104-306, §1(1), Oct. 14, 1996, 110 Stat. 3810; Pub. L. 105-177, §1(1), June 1, 1998, 112 Stat. 105; Pub. L. 106-64, §1(1), Oct. 5, 1999, 113 Stat. 511; Pub. L. 106-469, title I, §103(18), Nov. 9, 2000, 114 Stat. 2033; Pub. L. 108-7, div. F, title III, §339(a)(1), Feb. 20, 2003, 117 Stat. 278, authorized appropriations for this part, prior to repeal by Pub. L. 109-58, title III, §301(a)(1), Aug. 8, 2005, 119 Stat. 683.

#### § 6247. SPR Petroleum Account

##### (a) Establishment

The Secretary of the Treasury shall establish in the Treasury of the United States an account

to be known as the “SPR Petroleum Account” (hereinafter in this section referred to as the “Account”).

##### (b) Obligation of funds for acquisition, transportation, and injection of petroleum products into SPR

Amounts in the Account may be obligated by the Secretary of Energy for the acquisition, transportation, and injection of petroleum products into the Strategic Petroleum Reserve, for test sales of petroleum products from the Reserve, and for the drawdown, sale, and delivery of petroleum products from the Reserve—

(1) Repealed. Pub. L. 106-469, title I, §103(19)(A)(ii), Nov. 9, 2000, 114 Stat. 2033;

(2) in the case of any fiscal year, subject to section 7270 of this title, in such aggregate amounts as may be appropriated in advance in appropriation Acts; and

(3) in the case of any fiscal year, notwithstanding section 7270 of this title, in an aggregate amount equal to the aggregate amount of the receipts to the United States from the sale of petroleum products in any drawdown and distribution of the Strategic Petroleum Reserve under section 6241 of this title, including a drawdown and distribution carried out under subsection (g) of such section, or from the sale of petroleum products under section 6240(f) of this title.

Funds available to the Secretary of Energy for obligation under this subsection may remain available without fiscal year limitation.

##### (c) Provision and deposit of funds

The Secretary of the Treasury shall provide and deposit into the Account such sums as may be necessary to meet obligations of the Secretary of Energy under subsection (b).

##### (d) Off-budgeting procedures

The Account, the deposits and withdrawals from the Account, and the transactions, receipts, obligations, outlays associated with such deposits and withdrawals (including petroleum product purchases and related transactions), and receipts to the United States from the sale of petroleum products in any drawdown and distribution of the Strategic Petroleum Reserve under section 6241 of this title, including a drawdown and distribution carried out under subsection (g) of such section, and from the sale of petroleum products under section 6240(f) of this title—

(1) shall not be included in the totals of the budget of the United States Government and shall be exempt from any general limitation imposed by statute on expenditures and net lending (budget outlays) of the United States; and

(2) shall not be deemed to be budget authority, spending authority, budget outlays, or Federal revenues for purposes of title III of Public Law 93-344, as amended [2 U.S.C. 631 et seq.].

(Pub. L. 94-163, title I, §167, as added Pub. L. 97-35, title X, §1034(a)(1), Aug. 13, 1981, 95 Stat. 619; amended Pub. L. 97-229, §4(b)(2)(A), Aug. 3, 1982, 96 Stat. 251; Pub. L. 99-58, title I, §103(b)(3), (4), July 2, 1985, 99 Stat. 104; Pub. L. 101-383,

§ 5(b)(1), (2), Sept. 15, 1990, 104 Stat. 729; Pub. L. 102-486, title XIV, § 1404(b)(1), Oct. 24, 1992, 106 Stat. 2995; Pub. L. 106-469, title I, § 103(19), Nov. 9, 2000, 114 Stat. 2033.)

## REFERENCES IN TEXT

Public Law 93-344, as amended, referred to in subsec. (d)(2), is Pub. L. 93-344, July 12, 1974, 88 Stat. 297, as amended, known as the Congressional Budget and Impoundment Control Act of 1974. Title III of that Act is classified generally to subchapter I (§ 631 et seq.) of chapter 17A of Title 2, The Congress. For complete classification of this Act to the Code, see Short Title note set out under section 621 of Title 2 and Tables.

## AMENDMENTS

2000—Subsec. (b). Pub. L. 106-469, § 103(19)(A)(i), substituted “for test sales of petroleum products from the Reserve, and for the drawdown, sale,” for “and the drawdown” in introductory provisions.

Subsec. (b)(1). Pub. L. 106-469, § 103(19)(A)(ii), struck out par. (1) which read as follows: “in the case of fiscal year 1982, in an aggregate amount, not to exceed \$3,900,000,000, as may be provided in advance in appropriation Acts;”.

Subsec. (b)(2). Pub. L. 106-469, § 103(19)(A)(iii), struck out “after fiscal year 1982” after “any fiscal year”.

Subsec. (e). Pub. L. 106-469, § 103(19)(B), struck out subsec. (e) which read as follows:

“(1) Except as provided in paragraph (2), nothing in this part shall be construed to limit the Account from being used to meet expenses relating to interim storage facilities for the storage of petroleum products for the Strategic Petroleum Reserve.

“(2) In any fiscal year, amounts in the Account may not be obligated for expenses relating to interim storage facilities in excess of 10 percent of the total amounts in the Account obligated in such fiscal year. If the amount obligated in any fiscal year for interim storage expenses is less than the amount of the 10-percent limit under the preceding sentence for that fiscal year, then the amount of the 10-percent limit applicable in the following fiscal year shall be increased by the amount by which the limit exceeded the amount obligated for such expenses.”

1992—Subsec. (d). Pub. L. 102-486 substituted “under subsection (g)” for “subsection (g)”.

1990—Subsec. (b)(3). Pub. L. 101-383, § 5(b)(1), inserted before period at end “, or from the sale of petroleum products under section 6240(f) of this title”.

Subsec. (d). Pub. L. 101-383, § 5(b)(2), inserted “, and from the sale of petroleum products under section 6240(f) of this title” after “subsection (g) of such section”.

1985—Subsec. (b)(3). Pub. L. 99-58, § 103(b)(3), inserted “, including a drawdown and distribution carried out under subsection (g) of such section” after “section 6241 of this title”.

Subsec. (d). Pub. L. 99-58, § 103(b)(4), inserted “, including a drawdown and distribution carried out under subsection (g) of such section” after “section 6241 of this title” in provisions preceding par. (1).

1982—Subsec. (e). Pub. L. 97-229 added subsec. (e).

## EFFECTIVE DATE

Section effective Aug. 13, 1981, see section 1038 of Pub. L. 97-35, set out as an Effective Date of 1981 Amendment note under section 6240 of this title.

TRANSFER OF FUNDS TO SPR PETROLEUM ACCOUNT FOR  
DRAWDOWN AND SALE OPERATIONS

Pub. L. 106-113, div. B, § 1000(a)(3) [title II], Nov. 29, 1999, 113 Stat. 1535, 1501A-180, provided in part: “That the Secretary of Energy hereafter may transfer to the SPR Petroleum Account such funds as may be necessary to carry out drawdown and sale operations of the Strategic Petroleum Reserve initiated under section 161 of the Energy Policy and Conservation Act (42

U.S.C. 6241) from any funds available to the Department of Energy under this or any other Act: *Provided further*, That all funds transferred pursuant to this authority must be replenished as promptly as possible from oil sale receipts pursuant to the drawdown and sale.”

ACQUISITION, TRANSPORTATION, AND INJECTION OF PETROLEUM PRODUCTS FOR SPR; APPLICABILITY OF  
SUBSEC. (d)

Pub. L. 97-35, title X, § 1034(c), Aug. 13, 1981, 95 Stat. 620, provided that: “The provisions of section 167(d) of such Act, as added by subsection (a) of this section [subsec. (d) of this section], shall apply with respect to the outlays associated with unexpended balances of appropriations made available and obligated as of the end of fiscal year 1981 for the acquisition, transportation, and injection of petroleum products for the Strategic Petroleum Reserve to the same extent and manner as such provisions apply with respect to withdrawals from the SPR Petroleum Account.”

## § 6247a. Use of underutilized facilities

## (a) Authority

Notwithstanding any other provision of this subchapter, the Secretary, by lease or otherwise, for any term and under such other conditions as the Secretary considers necessary or appropriate, may store in underutilized Strategic Petroleum Reserve facilities petroleum product<sup>1</sup> owned by a foreign government or its representative. Petroleum products stored under this section are not part of the Strategic Petroleum Reserve and may be exported without license from the United States.

## (b) Protection of facilities

All agreements entered into pursuant to subsection (a) shall contain provisions providing for fees to fully compensate the United States for all related costs of storage and removals of petroleum products (including the proportionate cost of replacement facilities necessitated as a result of any withdrawals) incurred by the United States on behalf of the foreign government or its representative.

## (c) Access to stored oil

The Secretary shall ensure that agreements to store petroleum products for foreign governments or their representatives do not impair the ability of the United States to withdraw, distribute, or sell petroleum products from the Strategic Petroleum Reserve in response to an energy emergency or to the obligations of the United States under the Agreement on an International Energy Program.

## (d) Availability of funds

Funds collected through the leasing of Strategic Petroleum Reserve facilities authorized by subsection (a) after September 30, 2007, shall be used by the Secretary of Energy without further appropriation for the purchase of petroleum products for the Strategic Petroleum Reserve.

(Pub. L. 94-163, title I, § 168, as added Pub. L. 105-33, title IX, § 9303(a), Aug. 5, 1997, 111 Stat. 676.)

## REFERENCES IN TEXT

This subchapter, referred to in subsec. (a), was in the original “this title”, meaning title I of Pub. L. 94-163,

<sup>1</sup> So in original. Probably should be “products”.

Dec. 22, 1975, 89 Stat. 875, which is classified principally to this subchapter. For complete classification of title I to the Code, see Tables.

#### **§ 6247b. Purchase of oil from marginal wells**

##### **(a) In general**

From amounts authorized under section 6246 of this title, in any case in which the price of oil decreases to an amount less than \$15.00 per barrel (an amount equal to the annual average well head price per barrel for all domestic crude oil), adjusted for inflation, the Secretary may purchase oil from a marginal well at \$15.00 per barrel, adjusted for inflation.

##### **(b) Definition of marginal well**

The term “marginal well” has the same meaning as the definition of “stripper well property” in section 613A(c)(6)(E) of title 26.

(Pub. L. 94-163, title I, §169, as added Pub. L. 106-469, title III, §301(a), Nov. 9, 2000, 114 Stat. 2037.)

#### **PART C—AUTHORITY TO CONTRACT FOR PETROLEUM PRODUCT NOT OWNED BY UNITED STATES**

##### **PRIOR PROVISIONS**

A prior part C, consisting of section 6251 of this title, was redesignated part E of this subchapter, prior to repeal by Pub. L. 109-58.

#### **§ 6249. Contracting for petroleum product and facilities**

##### **(a) In general**

Subject to the other provisions of this part, the Secretary may contract—

- (1) for storage, in otherwise unused Strategic Petroleum Reserve facilities, of petroleum product not owned by the United States; and
- (2) for storage, in storage facilities other than those of the Reserve, of petroleum product either owned or not owned by the United States.

##### **(b) Conditions**

(1) Petroleum product stored pursuant to such a contract shall, until the expiration, termination, or other conclusion of the contract, be a part of the Reserve and subject to the Secretary's authority under part B.

(2) The Secretary may enter into a contract for storage of petroleum product under subsection (a) only if—

- (A) the Secretary determines (i) that entering into one or more contracts under such subsection would achieve benefits comparable to the acquisition of an equivalent amount of petroleum product, or an equivalent volume of storage capacity, for the Reserve under part B, and (ii) that, because of budgetary constraints, the acquisition of an equivalent amount of petroleum product or volume of storage space for the Reserve cannot be accomplished under part B; and

(B) the Secretary notifies each House of the Congress of the determination and identifies in the notification the location, type, and ownership of storage and related facilities proposed to be included, or the volume, type, and ownership of petroleum products proposed to be stored, in the Reserve, and an estimate of the proposed benefits.

(3) A contract entered into under subsection (a) shall not limit the discretion of the President or the Secretary to conduct a drawdown and sale of petroleum products from the Reserve.

(4) A contract entered into under subsection (a) shall include a provision that the obligation of the United States to make payments under the contract in any fiscal year is subject to the availability of appropriations.

##### **(c) Charge for storage**

The Secretary may store petroleum product pursuant to a contract entered into under subsection (a)(1) with or without charge or may pay a fee for its storage.

##### **(d) Duration**

Contracts entered into under subsection (a) may be of such duration as the Secretary considers necessary or appropriate.

##### **(e) Binding arbitration**

The Secretary may agree to binding arbitration of disputes under any contract entered into under subsection (a).

##### **(f) Availability of funds**

The Secretary may utilize such funds as are available in the SPR Petroleum Account to carry out the activities described in subsection (a), and may obligate and expend such funds to carry out such activities, in advance of the receipt of petroleum products.

(Pub. L. 94-163, title I, §171, as added Pub. L. 101-383, §6(a)(4), Sept. 15, 1990, 104 Stat. 729; amended Pub. L. 102-486, title XIV, §1403, Oct. 24, 1992, 106 Stat. 2994; Pub. L. 106-469, title I, §103(20), Nov. 9, 2000, 114 Stat. 2033.)

##### **PRIOR PROVISIONS**

A prior section 171 of Pub. L. 94-163 was renumbered section 191 and was classified to section 6251 of this title, prior to repeal by Pub. L. 109-58.

##### **AMENDMENTS**

2000—Subsec. (b)(2)(B). Pub. L. 106-469, §103(20)(A), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: “the Secretary notifies each House of the Congress of such determination and includes in such notification the same information required under section 6234(e) of this title with regard to storage and related facilities proposed to be included, or petroleum product proposed to be stored, in the Reserve.”

Subsec. (b)(3). Pub. L. 106-469, §103(20)(B), substituted “sale of petroleum products from” for “distribution of”.

1992—Subsec. (f). Pub. L. 102-486 added subsec. (f).

#### **§ 6249a. Implementation**

**(a), (b) Repealed. Pub. L. 106-469, title I, § 103(21), Nov. 9, 2000, 114 Stat. 2033**

##### **(c) Legal status regarding other law**

Petroleum product and facilities contracted for under this part have the same status as petroleum product and facilities owned by the United States for all purposes associated with the exercise of the laws of any State or political subdivision thereof.

##### **(d) Return of product**

At such time as the petroleum product contracted for under this part is withdrawn from